IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.234/1997

Miss Pushpalata P.Naik,
resident of Canacona, Goa. .... Petitioner.

V/s.

1. Directorate of Education,
through its Director,
having Office at 18 June Road.,
Panaji, Goa.

2. The Managing Trustee,
Bal Bharati Vidya Mandir Trust,
having Office at Ribandar, Goa.

3. Smt. Gema Lobo,
Asst. Primary Teacher,
Bal Bharati Vidya Mandir School,
Ribandar, Goa. .... Respondents.

Mr. M.S. Sonak, Advocate for the petitioner.

None present for the respondents.

CORAM : D.G. DESHPANDE &
P.V. HARDAS, JJ.

DATE : JANUARY 28, 2003.

ORAL JUDGMENT : (Per DESHPANDE, J.)

Heard Advocate for the petitioner. No body is present for the respondents. No return is filed by any of the respondents.

2. The petitioner was appointed as an Asst. Primary Teacher pursuant to an advertisement for which she was qualified. She was interviewed and by order

dated 3.8.1994, she was appointed as an Asst. Teacher (Primary Section) with effect from 20.06.1994. The order of appointment is filed at Exhibit 'B'. Thereafter, an order came to be issued on 16.10.1996 which was styled as "addendum" to the order of appointment. The said addendum is at Exhibit 'C'. It was stated therein that the appointment of the petitioner was as a substitute teacher in place of respondent No.3, who had proceeded on leave for the period from 26.6.1994 to 9.6.1996 for D.Ed. Course. The petitioner was further informed by the said letter that she would not be entitled to vacation salary and other benefits. Consequently, thereafter, orders for recovery or refund of an amount of Rs.19,569/- which was paid to the petitioner, as vacation salary, were passed and, hence this petition.

3. As stated by us, none of the respondents filed any return and nobody was present today. Even, otherwise, no justification is given for issuing the addendum order. No reason is given why in the advertisement the candidates were not informed that the said advertisement was in respect of a substitute teacher. No explanation as to why in the appointment letter the fact of the petitioner being a substitute teacher in place of the one who had proceeded on leave, was given. The appointment letter is absolutely clear

with no such reservation. Further, in the said appointment letter Exhibit 'B' nothing is mentioned that the petitioner would not be entitled to vacation salary.

4. Exhibit 'C' which is an addendum dated 16.10.1996 passed more than two years after initial order of appointment and the said addendum is totally contrary to the initial appointment letter. We do not find any justification in issuing the said addendum. No explanation is given in that behalf by any of the respondents. Consequently, the recovery on the basis of the said addendum is, therefore, illegal.

5. For the aforesaid reasons, we pass the following :

Petition is allowed. Rule made absolute in terms of prayer Clauses (a) and (b), with costs quantified at Rs.5,000/-.

D.G. DESHPANDE, J.

P.V. HARDAS, J.

ssm.